

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. PUR-2021-00064

*Ex Parte:* In the matter of registering and retiring  
Virginia-eligible renewable energy certificates

ORDER FOR COMMENT

This Order concerns the registration and retirement of Virginia-eligible renewable energy certificates (REC) in the PJM-EIS<sup>1</sup> Generation Attribute Tracking System (GATS).<sup>2</sup> Specifically, the State Corporation Commission ("Commission") has recently updated in GATS<sup>3</sup> business rules the categories of eligible generation sources for Virginia-qualified RECs in 2021-2024 ("GATS Update" or "Update").<sup>4</sup> The Update, attached to this Order, corresponds to the Virginia General Assembly's adoption of a mandatory renewable energy portfolio standard

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<sup>1</sup> PJM Environmental Information Services, Inc., a subsidiary of PJM. PJM is a regional transmission organization that coordinates the movement of wholesale electricity in all or parts of 13 states and the District of Columbia. Two of Virginia's investor-owned utilities are members of PJM: Virginia Electric and Power Company and Appalachian Power Company.

<sup>2</sup> GATS provides a mechanism to buy and sell RECs — each REC representing one megawatt-hour of electricity produced. Per PJM, GATS provides environmental and emissions attributes reporting and tracking services to its subscribers in support of renewable portfolio standards and other information disclosure requirements that may be implemented by government agencies. PJM-EIS owns and administers GATS.

<sup>3</sup> The Update was accomplished by correspondence dated April 5, 2021, from the Staff of the Commission ("Staff") to PJM-EIS, prepared and sent at the Commission's direction.

<sup>4</sup> GATS business rules for Virginia RECs were established administratively in 2013 by PJM in coordination with the Commission to facilitate the registration, transfer and retirement of Virginia-eligible RECs under Virginia's former voluntary renewable energy portfolio standard (established under § 56-585.2 of the Code, now repealed by the VCEA). These business rules are not regulatory rules of the Commission.

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("RPS") program for certain investor-owned utilities ("Utilities")<sup>5</sup> as part of the Virginia Clean Economy Act (VCEA).<sup>6</sup> Section § 56-585.5 of the Code ("RPS Statute" or "Statute") requires that the Utilities, "[t]o comply with the RPS Program, . . . shall procure and retire" RECs "from any renewable energy facility" as further defined in Code § 56-576 and within the RPS Statute itself.<sup>7</sup>

As discussed below, the RPS Statute establishes Virginia-eligible RECs for two separate periods: (i) RECs from renewable generation qualifying as "RPS eligible sources" in 2021-2024, and (ii) RECs from renewable generation qualifying as "RPS eligible sources" in 2025 and all years after. The GATS Update addressed the 2021-2024 period, only. The Commission anticipates updating GATS for the period of 2025 and thereafter at a later time, but well in advance of 2025.

During compliance period 2021-2024, the Statute permits the Utilities to utilize RECs from any renewable energy facility as defined in § 56-576 of the Code<sup>8</sup> (provided that the facilities are located within the Commonwealth or within the PJM region), with the caveat that:

at no time during this period or thereafter may any Phase I or Phase II  
Utility use RECs from (i) renewable thermal energy, (ii) renewable thermal

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<sup>5</sup> The Utilities subject to the mandatory RPS program are "Phase I" and "Phase II" utilities (which refer to Appalachian Power Company and Virginia Electric and Power Company, respectively).

<sup>6</sup> Chapters 1193 (HB 1526) and 1194 (SB 851) of the 2020 Virginia Acts of Assembly.

<sup>7</sup> The RPS Statute requires the Utilities to procure and retire RECs from RPS eligible sources to meet annual incremental RPS program requirements beginning in 2021.

<sup>8</sup> As defined in § 56-576 of the Code, "'Renewable energy' means energy derived from sunlight, wind, falling water, biomass, sustainable or otherwise, (the definitions of which shall be liberally construed), energy from waste, landfill gas, municipal solid waste, wave motion, tides, and geothermal power, and does not include energy derived from coal, oil, natural gas, or nuclear power. 'Renewable energy' also includes the proportion of the thermal or electric energy from a facility that results from the co-firing of biomass. 'Renewable energy' does not include waste heat from fossil-fired facilities or electricity generated from pumped storage but includes run-of-river generation from a combined pumped-storage and run-of-river facility."

energy equivalent, (iii) biomass-fired facilities that are outside the Commonwealth, or (iv) biomass-fired facilities operating in the Commonwealth as of January 1, 2020, that supply 10 percent or more of their annual net electrical generation to the electric grid or more than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected.<sup>9</sup>

During compliance period 2025 and thereafter, the Utilities may only use RECs from the specific RPS eligible sources identified in Code § 56-585.5 C.<sup>10</sup>

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<sup>9</sup> Code § 56-585.5 C.

<sup>10</sup> Code § 56-585.5 C provides, in pertinent part, that:

From compliance year 2025 and all years after, each Phase I and Phase II Utility may only use RECs from RPS eligible sources for compliance with the RPS Program.

In order to qualify as RPS eligible sources, such sources must be (a) electric-generating resources that generate electric energy derived from solar or wind located in the Commonwealth or off the Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the Commonwealth or physically located within the PJM region; (b) falling water resources located in the Commonwealth or physically located within the PJM region that were in operation as of January 1, 2020, that are owned by a Phase I or Phase II Utility or for which a Phase I or Phase II Utility has entered into a contract prior to January 1, 2020, to purchase the energy, capacity, and renewable attributes of such falling water resources; (c) non-utility-owned resources from falling water that (1) are less than 65 megawatts, (2) began commercial operation after December 31, 1979, or (3) added incremental generation representing greater than 50 percent of the original nameplate capacity after December 31, 1979, provided that such resources are located in the Commonwealth or are physically located within the PJM region; (d) waste-to-energy or landfill gas-fired generating resources located in the Commonwealth and in operation as of January 1, 2020, provided that such resources do not use waste heat from fossil fuel combustion or forest or woody biomass as fuel; or (e) biomass-fired facilities in operation in the Commonwealth and in operation as of January 1, 2020, that supply no more than 10 percent of their annual net electrical generation to the electric grid or no more than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected. Regardless of any future maintenance, expansion, or refurbishment activities, the total amount of RECs that may be sold by any RPS eligible source using biomass in any year shall be no more than the number of megawatt hours of electricity produced by that facility in 2019; however, in no year may any RPS eligible source using biomass sell RECs in excess of the actual megawatt-hours of electricity generated by such facility that year. In order to comply with the RPS Program, each Phase I and Phase II Utility may use and retire the environmental attributes associated with any existing owned or contracted solar, wind, or falling water electric generating resources in operation, or proposed for operation, in the Commonwealth or physically located within the PJM region, with such resource qualifying as a Commonwealth-located resource for purposes of this subsection, as of January 1, 2020, provided such renewable attributes are verified as RECs consistent with the PJM-EIS Generation Attribute Tracking System.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that the Utilities and interested persons should be provided an opportunity to comment concerning the GATS Update as it pertains to the Commission's implementation of the RPS Statute. As stated above, the GATS Update notifies PJM-EIS of the RPS-related changes made in the RPS Statute for categories of Virginia-eligible generation sources for 2021-2024. Consequently, comments from utilities and interested persons should be directed to the sufficiency of the attached Update's conformity to the RPS Statute, only, and for the period 2021-2024, only. The RPS Statute does not vest the Commission with discretion to modify these eligible generation source categories.

The Commission further takes judicial notice of the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, and the declarations of emergency issued at both the state and federal levels.<sup>11</sup> The Commission has taken certain actions, and may take additional actions going forward, which could impact the procedures in this proceeding.<sup>12</sup>

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<sup>11</sup> See, e.g., Executive Order No. 51, Declaration of a State of Emergency Due to Novel Coronavirus, COVID-19, issued March 12, 2020, by Gov. Ralph S. Northam. These and subsequent Executive Orders related to COVID-19 may be found at: <https://www.governor.virginia.gov/executive-actions/>.

<sup>12</sup> See, e.g., *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders*, Case No. CLK-2020-00004, Doc. Con. Cen. No. 200330035, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020), *extended by* Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency*, Case No. CLK-2020-00005, Doc. Con. Cen. No. 200330042, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020) ("Revised Operating Procedures Order"), *extended by* Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, Doc. Con. Cen. No. 200410009, Order Requiring Electronic Service (Apr. 1, 2020).

Consistent with these actions, in regard to the terms of the procedural framework established below, the Commission will, among other things, direct the electronic filing of comments.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed as Case No. PUR-2021-00064.

(2) All comments in this matter shall be submitted electronically to the extent authorized by Rule 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure.<sup>13</sup> For the duration of the COVID-19 emergency, any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.<sup>14</sup>

(3) Within five (5) business days of the date of this Order, the Commission's Division of Public Utility Regulation shall electronically transmit copies of this Order to those persons and entities identified by Staff as potentially having an interest in this matter.

(4) On or before May 7, 2021, any interested person may file comments on the GATS Update by following the instructions found on the Commission's website: [scc.virginia.gov/casecomments/Submit-Public-Comments](http://scc.virginia.gov/casecomments/Submit-Public-Comments). All filings shall refer to Case No. PUR-2021-00064.

(5) On or before May 28, 2021, the Staff may file with the Clerk of the Commission a report on or a response to any comments submitted to the Commission concerning the GATS Update.

(6) This matter is continued.

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<sup>13</sup> 5 VAC 5-20-10 *et seq.*

<sup>14</sup> As noted in the Revised Operating Procedures Order, submissions to the Commission's Clerk's Office via U.S. mail or commercial mail equivalents may not be processed for an indefinite period of time due to the COVID-19 emergency.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission. A copy hereof also shall be sent to the Commission's Office of General Counsel and Divisions of Public Utility Regulation and Utility Accounting and Finance.

## ATTACHMENT

**Revised Business Rules for Issuing VA-Approved Renewable Energy Certificates ("RECs")  
pursuant to 2020 Virginia Clean Economy Act ("VCEA")**

1. For the period 2021-2024, GATS can automatically certify as eligible for use toward the VA RPS all generation (as defined in § 56-576) from facilities located in Virginia and in the PJM Region, as similarly done today. However, effective January 1, 2021, the VCEA expressly prohibits the use of RECs from (i) renewable thermal energy, (ii) renewable thermal energy equivalent, (iii) biomass-fired facilities that are outside the Commonwealth, and (iv) biomass-fired facilities operating in the Commonwealth as of January 1, 2021, that supply 10 percent or more of their annual net electrical generation to the electric grid or more than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to which the generating source is interconnected. The following table reflects the VA-Eligible fuel types that may be used to produce RECs to comply with the VCEA and satisfy the Virginia RPS Goals for the period 2021-2024:

VA-Eligible Fuel Types: 2021-2024		Non-Eligible Fuel Types	
• LFG	Captured Methane - Landfill Gas	• CMG	Captured Methane - Coal Mine Gas
• FCR	Fuel Cell - Renewable Fuel	• BIT	Coal - Bituminous and Anthracite
• GEO	Geothermal	• LIG	Coal - Lignite
• WAT	Hydro - Conventional	• SC	Coal - Coal-based Synfuel
• OC1	Ocean	• SUB	Coal - Sub-Bituminous
• AB	Biomass - Agriculture Crops in VA	• WC	Coal - Waste/Other
• OBG	Biomass - Other Biomass Gases in VA	• EE	Energy Efficiency
• OBL	Biomass - Other Biomass Liquids in VA	• DSR	Demand-Side Response
• OBS	Biomass - Other Biomass Solids in VA	• FCN	Fuel Cell - Non-Renewable Fuel
• PW	Biomass - Poultry Waste in VA	• BFG	Gas - Blast-Furnace Gas
• SLW	Biomass - Sludge Waste in VA	• NG	Gas - Natural Gas
• SW	Biomass – Swine Waste in VA	• OG	Gas - Other
• SUN	Solar - Photovoltaic	• PG	Gas - Propane
• STH	Solar - Thermal	• NUC	Nuclear
• MSW	Solid Waste - Municipal Solid Waste	• DFO	Oil - Distillate Fuel Oil
• WH	Waste Heat	• JF	Oil - Jet Fuel
• WND	Wind	• KER	Oil - Kerosene
		• PC	Oil - Petroleum Coke
		• RFO	Oil - Residual Fuel Oil
		• WO	Oil - Waste/Other Oil

	<ul style="list-style-type: none"> <li>• OTH Other</li> <li>▪ HPS Pumped Storage</li> <li>• TDF Solid Waste – Tire Derived Fuel</li> <li>▪ WDS Wood – Wood/Wood Waste Solids</li> </ul>
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2. For generators that are eligible to satisfy RPS in VA pursuant to Va. Code § 56-585.5 C, GATS will apply a unique state certification number to the certificates created for that generator using a format to be determined by the SCC. For example, VA-#####-fueltype, where '#####' is a unique number and 'fueltype' is one of the codes from the table above.
3. If it is not possible for PJM EIS to determine if a facility is eligible in VA, any other VA certifications will be applied by the GATS Administrators on an exception basis as directed by the VA SCC. Additional requirements of VA regarding eligibility:
  - RECs associated with capacity or energy generated by a public utility serving the Commonwealth must be from facilities located within VA or within the PJM interconnection region.
  - Low-income qualifying projects are not currently available until such time further determination is made as to what constitutes such projects.
  - Biomass-fired facility limited to that meeting the criteria of Va. Code § 56-585.5 C.
4. RPS compliance in VA will be on a calendar-year basis. RECs meeting the criteria set forth in Va. Code § 56-585.5 C can be used for RPS compliance for the calendar year in which the generation occurred or, for RECs created in 2016 and thereafter, within the subsequent five calendar years.
5. RECs used by a public utility to comply with VA RPS must also record the associated price or value of such RECs at retirement level.
6. For the period 2025 and beyond, further revisions to GATS will be addressed at a later time to reflect the VCEA (RPS Eligible Resources as defined in § 56-585.5 C) and any subsequent amendments in advance of the year 2025.